ARTICLE 3 ADMINISTRATION

DIVISION 1 DUTIES AND RESPONSIBILITIES OF DECISION-MAKING, ADMINISTRATIVE AND ADVISORY BODIES

The following decision-making, administrative and advisory bodies shall have the following duties and responsibilities in the administration of these land use regulations.

Section 3.100 Costilla County Board of County Commissioners

- A. **Powers and duties.** In addition to any authority granted to the Board of County Commissioners by general or special law, the Board of County Commissioners shall have the following powers and duties under the provisions of this Land Use Code, including but not limited to:
 - 1. **Amendment to text of this Land Use Code**. To initiate, hear, consider and approve or disapprove applications to amend the text of these regulations.
 - 2. **Amendment to Official Zone District Map/Rezoning**. To initiate, hear, review, consider and approve or disapprove applications for amendment to the Official Zone District Map/Rezoning.
 - 3. **PUD**. To hear, review, consider and approve or disapprove applications for Planned Unit Development (PUD) District.
 - 4. **Exemptions from Subdivision and Subdivisions**. To hear, review, consider and approve or disapprove applications for Subdivision Exemptions.
 - 5. **Subdivision**. To hear, review, consider and approve, approve with conditions, or disapprove applications for Sketch Plan/Preliminary Plan and Final Plat for Subdivision.
 - 6. **Uses by Special Review**. To hear, review, consider and approve, approve with conditions or disapprove Special Use Permits.
 - 7. **Appeals of Administrative Zoning Permits and Limited Impact Review**. To hear, review, consider and approve, approve with conditions or disapprove appeals of a decision by the Land Use Administrator to issue an Administrative Zoning Permit and decisions of the Planning Commission to issue a Land Use Permit for Limited Impact Uses.
 - 8. **Public Way Vacations**. To hear, review, consider and approve, approve with conditions or disapprove vacations of public ways and easements.

9. **Other Action**. To take such other action not delegated to the Planning Commission, the Board of Adjustment, or Hearing Officers or Land Use Administrator, as the Board of County commissioners may deem desirable and necessary to implement the provisions of the Comprehensive Plan and this Code.

Section 3.110 Costilla County Planning Commission.

- A. **Powers and Duties**. The Costilla County Planning Commission shall have the following powers and duties under the provisions of these land use regulations for all matters within the unincorporated portions of Costilla County.
 - 1. **Prepare/Amend Comprehensive Plan**. To prepare, adopt and amend the Costilla County Comprehensive Plan.
 - 2. **Recommend Amendments to Text of this Land Use Code**. To initiate, hear, review, consider, and make recommendations to the Board of County Commissioners to approve or disapprove applications to amend the text of this Land Use Code.
 - 3. **Recommend Amendments to the Official Zone District Map**. To initiate, hear, review, consider and make recommendations to the Board of County Commissioners to approve or disapprove amendments to the Official Zone District Map of this Land Use Code.
 - 4. **Recommend Planned Unit Development (PUD) District**. To hear, review, consider and make recommendations to the Board of County Commissioners to approve or disapprove applications for a Sketch Plan/Preliminary Plan for a Planned Unit Development District.
 - 5. **Special Review Uses**. To hear, review, consider and make recommendations to the Board of County Commissioners to approve, approve with conditions, or disapprove Special Review Uses and Limited Review Uses.
 - 6. **Subdivision**. To hear, review, consider and make recommendations to the Board of County Commissioners to approve, approve with conditions or disapprove applications for development permit for Sketch Plan/Preliminary Plans for Subdivisions.

B. Planning Commission Membership.

1. **Qualifications**. Members of the Planning Commission shall be residents of Costilla County prior to appointment, and registered voters. No member of the Board of County Commissioners shall serve on the Costilla County Planning Commission.

- 2. **Appointment**. The Costilla County Planning Commission shall be composed of seven (7) voting members appointed by a majority vote of the Board of County Commissioners by Resolution.
- C. **Terms of Office**. All members serving on the Planning Commission on the effective date of this Land Use Code shall complete their terms according to their prior appointments. The term of office of each member appointed shall be for three (3) years
- D. **Removal from Office**. Any member of the Costilla County Planning Commission may be removed for cause (misconduct or nonperformance of duty) by the Board of County Commissioners
- E. **Vacancy**. Whenever a vacancy occurs on the Costilla County Planning Commission, the member's or associate member's position shall remain vacant until a new member or associate member can be appointed by the Board of County Commissioners.
- F. **Rules of Conduct and Procedure**. The Planning Commission shall adopt rules to govern the appointment and terms of officers, voting rights and other procedural matters.
- G. **Compensation**. The members of the Costilla County Planning Commission shall serve without compensation, but may be reimbursed for such travel, mileage and continuing education expenses as may be authorized by the Board of County Commissioners.

Section 3.120 Costilla County Board of Adjustment

- A. **Powers and Duties**. The Board of Adjustment shall have the following powers and duties under the provisions of this Land Use Code.
 - 1. **Variance**. To hear, review and approve, approve with conditions, or disapprove applications for variances from zone district standards
 - 2. **Appeal Decision/Interpretation of Land Use Administrator**. To hear, review, consider and affirm, modify, or reverse appeals of interpretations of these regulations made by the Land Use Administrator
- B. Board of Adjustment Membership.
 - 1. **Qualifications**. Members of the Board of Adjustment shall be residents of the County prior to appointment, and registered voters. No member of the Board of County Commissioners shall serve on the Board of Adjustment.
 - 2. **Appointment**. The Board of Adjustment shall be composed of three (3) members, to be appointed by a majority vote of the Board of County Commissioners by Resolution.

- C. **Terms of Office**. All members serving on the Board of adjustment on the effective date of this Land Use Code shall complete their terms according to their prior appointments. The term of office for each member shall be two (2) years.
- D. **Removal from Office**. Any member of the Board of Adjustment may be removed for cause by the Board of County Commissioners.
- E. **Vacancy**. Whenever a vacancy occurs on the Board of Adjustment, the member's position shall remain vacant until a new member can be appointed by the Board of County Commissioners.
- F. **Compensation**. The members of the Board of Adjustment shall serve without compensation, but may be reimbursed for such travel, mileage and continuing education expenses as may be authorized by the Board of County Commissioners.

Section 3.130 Land Use Administrator

A. **Duties and Responsibilities**. The Land Use Administrator or his designated representatives is responsible for the administration and or enforcement of all ordinances and regulations, requirements and provisions of this Code. In order to carry out these responsibilities the Land Use Administrator fulfills the roles of the Zoning Administrator and Secretary to the Planning Commission, the Board of Adjustments, and the Board of County Commissioners when acting upon land use issues. The Land Use Administrator is responsible for issuing Land Use Permits and for the administrative zoning review and approval of Land Use Permit applications subject to the administrative zoning review process under Section 3.300.

DIVISION 2 GENERAL APPLICATION AND REVIEW PROCEDURES

Section 3.200 Pre-application Conference

- A. **Pre-application Conference Required.** Unless expressly provided otherwise in this Code, a pre-application conference is required for all applicants for all requested actions under this Code.
 - 1. **Participating Parties**. The pre-application conference shall be held between the applicant and the Land Use Administrator or staff.
 - 2. **Purpose**. This meeting is intended to provide an understanding of the applicable review procedures, requirements and standards, and to provide information pertinent to the site and the proposal. The Administrator will explain the application procedures and the materials required for submittal.
 - 3. **Materials**. The applicant shall bring a conceptual site plan to the pre-application conference showing in sufficient detail the location, parcel size, and basic concept of the proposed land use.

- B. **Optional Report.** Within five business days after the pre-application conference, the Administrator may, at his discretion, prepare and mail to the applicant a written report regarding any concerns or conflicts raised by the applicant's proposal.
- C. **Determination of Level of Review.** The Administrator will determine the appropriate type of review process for the land use change that is being sought.

Section 3.210 Submit Application

Applications for Land Use Permits shall be submitted to the Land Use Administrator by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.

- A. **Application**. The following basic materials are required for *all* applications for a Land Use Permit. For certain types of land use applications there are additional application submittal requirements and procedures. The Land Use Administrator will determine the number of copies of the materials that will be required. The Administrator may waive or alter any of these minimum requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.
 - 1. **Application Form**. Application forms for Land Use Permits shall be obtained from the Land Use Administrator. The application shall include the name of the proposed development or use, and the total number of acres. Completed application forms and accompanying materials shall be submitted to the Land Use Administrator by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent
 - a. <u>Applicant is not the owner</u>. If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application.
 - b. <u>Applicant is not the sole owner</u>. If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by the other owners or an association representing the owners consenting to or joining in the application for development permit
 - 2. **Vicinity Map.** An 8 ½ x 11 vicinity map locating the parcel in the County. The vicinity map shall clearly show the boundaries of the subject property, and all property within a three-mile radius of the subject property.
 - 3. **Site Plan**. A site plan prepared at a scale acceptable to the Land Use Administrator, which best conveys the conceptual aspects of the plan and for effective public presentation. The site plan must have the following elements:

- a. The name, address and telephone number of the property owner, applicant if not the owner, and the person(s) who prepared the submittal.
- b. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).
- c. A complete legal description of the property, including the total size of the parcel.
- d. Clearly identified boundary lines, corner pins, dimensions of the subject property, and distance of structures from property lines.
- e. Location, dimension of all structures, existing and proposed.
- f. Existing and proposed parking areas, driveways, emergency turn-outs and emergency turn-arounds, sidewalks and paths, with locations and dimensions including all proposed grading for the property.
- g. Exiting and proposed roads, railroad tracks, irrigation ditches, fences, existing and proposed utility lines, and easements and rights-of-ways on or adjacent to the parcel, shown by location and dimension.
- h. Significant on-site features including, but not limited to: natural and artificial drainage ways, wetland areas, ditches, hydrologic features (with flooding limits based on information available through the County) and aquatic habitat; geologic features and hazards, including slopes, alluvial fans, areas of subsidence, rock outcrops and, rockfall areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development.
- i. Description of the proposed wastewater treatment system, including location and size of leach field, sewer service lines, and treatment facilities to serve the proposed use.
- j. Description of the source and capacity of the water supply, including location and size of well(s) and/or water lines to serve the proposed use.
- k. Elevation drawings showing existing grade, finished grade, and height of the proposed structure above existing grade. The location and dimensions of all windows must also be included on each of the elevations.
- 1. Verification that the site is a legal building lot under this Code and that legal access from a public road has been obtained.

- m. Additional information that may be requested by the Land Use Administrator.
- B. **Fees**. Any application for a Land Use Permit must be accompanied by the appropriate fees. A schedule of fees is available through the Planning Department
- C. **Plans and Specifications Approved by Certified Subdivision**. The plans and specifications for a single family dwelling approved by a Certified Subdivision may be submitted lieu of the Vicinity Map and Site Plan required in sections 3.210(A)(2) and 3.210(A)(3).

Section 3.220_____ Review of Application by the Land Use Administrator.

The Land Use Administrator shall review the Land Use Application as follows:

- A. **Completeness Determination**. Within fifteen (15) days of receipt of the application, the Administrator shall determine whether the application is complete.
 - Application is Not Complete. If the application is not complete, the Administrator shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within sixty (60) calendar days, the application shall be considered withdrawn and returned to the applicant.
 - 2. **Application is Complete**. If the application is complete, the Administrator shall certify it as complete and stamp it with the date of the application acceptance.
- B. **Evaluation**. The Land Use Administrator shall review the application to determine whether it complies with applicable standards.

Section 3.230_____ Notice of Public Hearing.

Certain Land Use Permits will require a public hearing. When a public hearing is required, the following public notice shall be required unless otherwise specified.

A. Manner and Type of Notice

- 1. **Notice by Publication**. At least fourteen (14) days prior to the day of the scheduled public hearing before the Planning Commission, and at least thirty (30) days prior to the day of the scheduled public hearing before the Board of County Commissioners, a notice of public hearing shall be published in a newspaper of general circulation in Costilla County. Publication of said notice shall follow a form prescribed by the County.
- 2. **Notice to Adjacent Property Owners**. At least thirty (30) days prior to day of the scheduled public hearing by the Planning Commission, the applicant shall

mail a written notice of the public hearing by registered mail, return receipt requested, to the owners of record of all property adjacent to the property. The notice shall include a vicinity map, a short narrative describing the current zoning and proposed land use change, and an announcement of the date, time and location of the scheduled hearing.

- 3. **Posting of Notice**. At least fourteen (14) days prior to the day of the scheduled public hearing before the Planning Commission, the applicant shall post notice of the public hearing on the property. Such notice shall follow a form prescribed by the County and shall consist of at least one sign facing each adjacent public right-of-way, located within ten (10) feet of the property line and located so as to be fully visible from the right-of-way. Such signs shall measure at least 3 feet by four feet, the size of all letters shall be at least two inches high and the signs shall be erected on posts no less than four feet nor more than six feet above ground level.
- B. **Responsibility for Notice**. Public notification of the hearing is the responsibility of the applicant, and the applicant shall provide at the public hearing proof of publication, proof of payment of publication and proof of notification of adjacent property owners.

Section 3.240 Conduct of Public Hearing.

Certain approvals will require a public hearing. When a public hearing is required under this Land Use Code it shall be conducted in accordance with the following procedures:

- A. **Hearing Process**. A public hearing shall be conducted in accordance with the following process upon public notification pursuant to the provisions of Section 3.230:
 - 1. **Rights of All Persons.** Any person may appear at a public hearing and submit evidence, including oral testimony, either individually or as a representative of an organization. Comment may also be submitted in written form before or during the hearing, or within a period of time after the hearing has closed as designated by the review body chairperson.
 - 2. **Order of Proceedings**. The order of the proceedings shall be as follows:
 - a. <u>Staff Report</u>. Five (5) days prior to the date of the public hearing, the Planning Department shall submit a staff report to the review body. A copy of the Staff Report shall be provided to the Applicant prior to the public hearing. A copy of the Staff Report shall also be available for public review.
 - b. <u>Confirmation of adequate public notice</u>. The Administrator shall report whether or not adequate notice has been accomplished pursuant to Section 3.230.
 - c. <u>Land Use Administrator Presentation and Analysis</u>. The Land Use Administrator shall describe the applicant's proposed project, identify the standards of this Code that apply to the proposed project and provide an analysis to establish whether the application meets those standards.
 - d <u>Applicant's Presentation</u>. The applicant shall make an oral presentation on behalf of the application.
 - e. <u>Questions by Review Body</u>. The review body may ask questions of the Land Use Administrator, the applicant, or members of the public in attendance.
 - f. <u>Public Comments</u>. Public comments shall be heard. Written comments that have been received before the hearing shall be reported by the Land Use Administrator and acknowledged to be part of the hearing record.
 - g. <u>Applicant Response</u>. The applicant may respond to any comments made by the public, the Land Use Administrator, or the review body.

- h. <u>Land Use Administrator Response</u>. The Land Use Administrator may respond to any statement made by the applicant, the public, or the review body.
- 3. **Ex Parte Communications**. Members of decision-making bodies shall not engage in communications with the applicants and their agents and applicants and their agents shall not engage in communications with the Planning Commission, Board, or other decision making body about applications under review or reasonably anticipated to come under review. If an ex parte communication is attempted by telephone, in person, by telefax or other means outside of a regularly scheduled public meeting, the member of the decision-making body involved shall first attempt to stop the party from the prohibited behavior, then document the communication and notify the Land Use Administrator by telephone or in written form. The Administrator shall then enter that documentation into the public file. The Administrator shall report that documentation at the next meeting or hearing on the subject application. No ex parte communication shall be considered by a decision-making body, or any of its members, in making a decision on a land use permit matter.
- 4. **Time Limits for Testimony**. The chairperson conducting the public hearing shall set reasonable time limits for testimony or presentation of evidence. If any testimony or evidence is so limited, the person offering that testimony or evidence shall have an opportunity to enter it into the record in writing at the public hearing.
- 5. **Continuance of Public Hearing**. At the conclusion of the hearing, the body conducting it may continue the public hearing to a fixed date and time acceptable to the applicant.
- 6. **Close of Public Hearing**. If the hearing is not continued, it shall be closed. At the close of the hearing, the chairperson of the body conducting the hearing may leave the record open for a defined period of time during which only written comment will continue to be accepted. If no such time period is defined, no further written comment shall be accepted beyond the time the hearing is closed.
- 7. **Deliberation and Decision**. At the close of public hearing and the record, the review body conducting the hearing shall proceed with deliberations and a decision regarding the application.
- 8. **Record of Public Hearing**. The body conducting the public hearing shall record the public hearing by any appropriate means, including audiotape or videotape, and written minutes.
- 9. **Record of Decision**. The record of decision includes: the written and taped record of oral proceedings, including testimony and statements of personal opinions; the minutes of the hearing and other meetings of the review body; all

applications, exhibits, letters and papers submitted by any person to the County regarding the application; the Planning Department's Report; referral agency reports and the decisions of the recommending and decision-making bodies. Those materials, on presentation to the County, shall become the public property of the County and shall not be removed with out proper authorization.

DIVISION 3 APPLICATION AND REVIEW PROCEDURES FOR LAND USE PERMITS SUBJECT TO ADMINISTRATIVE ZONING APPROVAL

Section 3.300 Application Submittal Requirements and Review Procedures for Administrative Zoning Review

A. **Application.** An applicant for a Land Use Permit requiring Administrative Zoning Review shall submit the application materials required under Section 3.210.

B. Review Procedures.

- 1. **Review of Application Materials by Land Use Administrator**. The Administrator shall review the application for determination of completeness in accordance with the provisions of Section 3.220.A.
- 2. **Evaluation**. Upon determination of completeness, the Administrator shall review the application for compliance with the General Approval Standards set forth in Section 5.100. The Administrator's review of the application may include comment by referral agencies and adjacent property owners.
 - a. <u>Review by Referral Agencies</u>. The Administrator at his discretion may submit the application materials to referral agencies for comment as the administrator deems appropriate and necessary. The referral review and comment period shall be for a period of time up to thirty (30) days from the date that the application is deemed complete.
 - b. <u>Notice to Adjacent Property Owners</u>. Notice to adjacent property owners shall not be required unless the Administrator determines that the proposed use is likely to affect adjacent property owners. If notification is required, the notice shall be made by the applicant pursuant to the provisions of Section 3.230.A.2.
- C. Land Use Administrator Decision. The Administrator may approve, approve with conditions or deny the application for a Land Use Permit subject to Administrative Zoning Review, based upon compliance of the proposed use with the General Approval Standards set forth in Section 5.100. The Administrator shall inform the applicant of the approval, conditions of approval or basis for denial in writing within five (5) days of the decision.

Section 3.310 Appeal of Administrative Zoning Review Decision.

- A. **Request for Review by Board.** An applicant may request review by the Board of County Commissioners of the Administrative Zoning Decision by filing a written request for appeal within ten (10) days of notice of the decision.
- B. Consideration of Applicants Request for Review by the Board of County Commissioners. Upon receiving the applicant's request for appeal, the Administrator shall schedule a hearing before the Board of County Commissioners at a regular meeting, not more than forty-five (45) days from the receipt of the applicant's request for appeal. Upon proper notice, in accordance with Section 3.230, the Board shall conduct a hearing in accordance with the provisions of Section 3.240. The Board shall either uphold the Administrator's decision, modify the decision, or reverse the decision.
- DIVISION 4 APPLICATION AND REVIEW PROCEDURES FOR LAND USE
 PERMITS SUBJECT TO LIMITED IMPACT USE AND SPECIAL
 REVIEW.
- Section 3.400 Application Submittal Requirements for Land Use Permits Subject to Limited Impact Uses and Special Review.
- A. **Application.** An applicant for a Land Use Permit to conduct a use subject to Limited Impact Review or Special Review shall submit the following.
 - 1. **Application Materials**. The application materials required in Section 3.210
 - 2. Additional Site Plan Detail. Additional detail on the Site Plan may be required by the Land Use Administrator including but not limited to:
 - a. <u>Topographic Contours</u>. Existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the development, drainage and grading plans.
 - b. <u>Identification of Archaeological, Cultural and Historical Resources.</u> A letter of verification of a search of Inventory of Cultural Resources from the State Historical Society; a report defining the archaeological or historical resources on the site based on information available from the State Historic Preservation Officer; or the appropriate archeological field survey report.
 - 3. **Wildfire Mitigation Plan**. A wildfire mitigation plan shall be submitted by the applicant.
 - 4. **Control Plan for Undesirable Plants**. A control plan for undesirable plants shall be submitted by the applicant.

- 5. **Impact Analysis**. A description of the impacts that the proposed use may cause, described in terms of the standards that apply to Limited Impact Uses in Section 5.100, and a complete description of how the applicant will ensure that impacts will be mitigated and standards will be satisfied.
- B. Additional Materials Watershed Protection Overlay. For uses located in a Watershed Protection Overlay, the following additional site plan detail and information is required.
 - 1. **Vegetative Cover.** A general description of the type and density of vegetation including i) deciduous trees, ii) coniferous trees, iii) high shrubs, and iv) sage, grassland, and agricultural crops. The county may require a more detailed tree/vegetation survey if the site has unusually significant vegetative cover as defined in this Land Use Code.
 - 2. **Wetlands**. Identification of all wetlands areas in excess of three acres using the Federal Manual for Identification and Delineation of Jurisdictional Wetlands. Applications for minor activities may meet this requirement by a visual identification of wetlands.
 - 3. **Water Bodies**. A description of all lakes, streams, ditches and other water bodies and their classifications and standards adopted by the Colorado Water Quality Control Commission. A summary of the existing water quality data, if any, collected by government agencies, for such water bodies.
- C. **Additional Materials Floodplain Overlay**. For uses located in a Floodplain Overlay, the following additional materials are required.
 - 1. **Floodplain and Floodway Plan**. Plans prepared by a qualified engineer and drawn to an appropriate scale which show the floodplain and floodways and overall site affected, the proposed improvements or development, the elevations of the area in question, any existing or proposed structures, fill, storage of materials, drainage facilities and the location or each.
 - a. <u>Elevation of Grades and Lowest Floor</u>. The plans should indicate at 2' intervals the mean sea level elevation of all existing and finished grades and of the lowest floor (including the basement) of all new and substantially improved structures and the mean sea level elevation to which any structure or use is flood proofed.
 - b. <u>Flood Proofing Methods</u>. The plans shall be certified by a registered professional engineer that the flood proofing methods meet flood proofing criteria provided by the County, district or agency involved in the review procedure.

- c. <u>Alterations to Watercourse</u>. The plans should provide a description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- 2. **Permits**. Copies of all necessary permits from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments, 33 USC 1334.
- D. Additional Materials Single-Family Dwellings in Certified Subdivisions. In lieu of the additional application submittal requirements under Section 3.400, the Administrator may accept the application materials submitted for approval of the proposed development by the Certified Subdivision. The application materials must be sufficient for the Administrator to determine that the proposed Land Use Change complies with the County's development standards. Additional information may be requested by the Administrator.

Section 3.410 Review Procedures Applicable to Limited Impact Uses.

A. **Pre-application Conference**. A pre-application conference shall be held in accordance with Section 3.200.

B. Review Procedures.

- 1. **Review of Application Materials by Land Use Administrator**. The Land Use Administrator shall review and prepare a report on the application for a Land Use Permit subject to Limited Impact Use review in accordance with the provisions of Section 3.220. Upon a determination of completeness, the Administrator shall schedule the application for review by the Planning Commission.
 - a. Public hearing by the Planning Commission shall be scheduled within forty-five (45) calendar days of the date of completeness determination.
 - b. Public notice of the hearing shall be made in conformance with Section 3.230 and shall be the responsibility of the applicant.
- 2. **Referral Agency Review**. When in the judgment of the Administrator, a Land Use Permit application subject to Limited Impact Use review requires referral review and comment by any agency, organization, governmental entity or person or persons, the Administrator may so cause the application materials or any portion thereof to be submitted for referral review and comment. The referral review and comment period shall be for a period of time up to thirty (30) days from the date that the application is deemed complete.
- 3. **Review and Action by Planning Commission**. The Land Use Permit application subject to Limited Impact Use review shall be considered by the Planning

Commission at a public hearing, after proper notice, in accordance with Section 3.240.

- a. The Planning Commission shall approve, approve with conditions or deny the application for Limited Impact Use based on the standards set forth in Section 5.100.
- b. If the application fails to satisfy all of the applicable standards the application shall be denied.
- 4. **Appeal to the Board of County Commissioners of Planning Commission Decision**. Any person aggrieved by the decision of the Planning Commission on a Land Use Permit application subject to Limited Impact Use review may appeal the Planning Commission's decision to the Board of County Commissioners.
 - a. A written notice of appeal setting forth the reasons why the Board of County Commissioners should revise or reverse the decision of the Planning Commission must be submitted to the Land Use Administrator within five (5) days of the decision by the Planning Commission on the Limited Impact Use.
 - b. The Land Use Administrator shall schedule a hearing for the Board of County Commissioners to hear the appeal within forty-five (45) days of receipt of the notice of appeal.
 - c. Public notice of the hearing shall be made by publication and notice to adjacent property owners in accordance with the procedures set forth in Section 3.230, *except* that it is not necessary to post a notice of the hearing on the property, and written notice to adjacent property owner shall be mailed at least twenty (20) days prior to the hearing, and public notice shall be the responsibility of the County.
 - d. Following a properly noticed public hearing, the Board of County Commissioners shall either uphold the decision of the Planning Commission, reverse the decision of the Planning Commission, or revise the decision of the Planning Commission on the Limited Impact Use.

Section 3.420 Review Procedures Applicable to Uses Subject to Special Review

A. **Pre-application Conference**. A pre-application conference shall be held in accordance with Section 3.200.

B. Review Procedures.

1. **Review of Application Materials by Land Use Administrator**. The Land Use Administrator shall review and prepare a report on the application for a Land Use

Permit for a Special Review in accordance with the provisions of Section 3.220. Upon a determination of completeness, the Administrator shall schedule the application for review and recommendation by the Planning Commission.

- a. Public hearing by the Planning Commission shall be scheduled within forty-five (45) calendar days of the date of completeness determination.
- b. Public notice of the hearing shall be made in conformance with Section 3.230 and shall be the responsibility of the applicant.
- 2. **Referral Agency Review**. The Administrator shall cause the application materials or any portion thereof to be submitted for referral review and comment. The referral review and comment period shall be for a period of time up to 30 days from the date that the application is deemed complete.
- 3. **Review and Recommendation by Planning Commission**. The Special Review application shall be considered by the Planning Commission at a public hearing, after proper notice, in accordance with the provisions of Section 3.240. The Planning Commission shall recommend approval, approval with conditions or denial of the Special Review application based on the approval standards set forth in Section 5.100.
- 4. **Public Hearing and Action by Board of County Commissioners.** The final decision to approve, approve with conditions or deny the application for a use by Special Review shall be made by the Board of County Commissioners at a public hearing.
 - a. Public hearing by the Board of County Commissioners shall be scheduled within forty-five (45) calendar days of the Planning Commission recommendation.
 - b. Public notice of the Board of County Commissioners hearing shall be in conformance with Section 3.230 and shall be the responsibility of the applicant
 - c. Following the public hearing, conducted pursuant to Section 3.240, the Board of County Commissioners shall either approve, approve with conditions or deny the application for a Land Use Permit to conduct the use by Special Review, based on the approval standards in Section 5.100. If the application fails to satisfy any one of the applicable standards set forth in Section 5.100 the application shall be denied.

DIVISION 5 APPLICATION AND REVIEW PROCEDURES FOR REZONING AND TEXT AMENDMENTS.

Section 3.500____ Rezoning.

- A. **Initiation**. Rezoning may be initiated by the Board of County Commissioners, the Planning Commission, the Land Use Administrator, or the legal owner of any property in Costilla County or their authorized agent. No rezoning request shall be processed unless it is accompanied by a request to conduct a specific land use.
- B. **Application**. An Application for rezoning shall be submitted to the Administrator, and shall contain the materials specified in Section 3.210, with the following additional submittal requirements.
 - 1. **Additional Elements of the Written Description**. The Written Description shall include:
 - a. A description of the existing uses of the subject property and of the adjacent properties within 500' of the subject property.
 - b. A description of the proposed use, density and the timing for its development.
 - 2. **Survey.** The application shall include a survey and legal description prepared by a Colorado Registered Surveyor, which accurately describes the dimensions of the subject property, including its size in square feet or acres.
 - 3. **Compliance with Rezoning Standards.** A report that explains how the rezoning would satisfy the approval standards for a Rezoning set forth in Section 5.100.
 - 4. **Preliminary Plan Application.** When a rezoning is necessary to conduct a land use that requires subdivision, then the applicant shall submit the subdivision Preliminary Plan application along with the rezoning request.
 - 5. **Land Use Permit Application Materials.** Any other materials required as part of the Land Use Permit Application for the use that will be conducted if the Rezoning is approved
 - 6. **Impact Analysis**. A description of the impacts that the rezoning may cause, and a complete description of how the applicant will ensure that impacts will be mitigated and standards will be satisfied.

C. Review and Approval Procedure for Rezoning

- 1. **Pre-application Conference**. A pre-application conference shall be held in accordance with Section 3.200.
- 2. **Review of Application Materials by Land Use Administrator**. The Administrator shall review and prepare a report on the application for a Rezoning

in accordance with the provisions of Section 3.220. Upon a determination of completeness, the Administrator shall schedule the application for review and approval by the Planning Commission.

- a. Public hearing by the Planning Commission shall be scheduled within forty-five (45) calendar days of the date of completeness determination
- b. Public notice of the hearing shall be made in conformance with Section 3.230 and shall be the responsibility of the applicant.
- 3. **Referral Agency Review**. The Administrator shall cause the application materials or any portion thereof to be submitted for referral review and comment. The referral review and comment period shall be for a period of time up to thirty (30) days from the date that the application is deemed complete.
- 4. **Review and Recommendation by Planning Commission**. The Rezoning application shall be considered by the Planning Commission at a public hearing, after proper notice, in accordance with the provisions of Section 3.240, together with the Land Use Permit or Preliminary Plan accompanying the Rezoning request. The Planning Commission shall recommend approval, approval with conditions or denial of the Rezoning based on the approval standards set forth in Section 5.100.
- 5. **Public Hearing and Action by Board of County Commissioners.** The final decision to approve, approve with conditions or deny the application for a Rezoning shall be made by the Board of County Commissioners at a public hearing.
 - a. Public hearing by the Board of County Commissioners shall be scheduled within forty-five (45) calendar days of the Planning Commission recommendation.
 - b. Public notice of the hearing shall be made in conformance with Section 3.230 and shall be the responsibility of the applicant.

Section 3.510 Amendment to the Text of this Land Use Code

- A. **Initiation**. Text amendments to this Land Use Code shall be initiated by the Board of County Commissioners, the Planning Commission, or the Land Use Administrator.
- B. **Proposed Amendment**. A proposal for text amendment shall state the precise wording of the proposed text amendment, and the reason for the proposed amendment.
- C. **Public Review.** Copies of the proposed text amendment shall be available at the County offices for review by the public.

- D. **Review and Recommendation of Planning Commission**. Following the publication of notice of the proposed text amendment published at least fourteen (14) days prior to the public hearing, the Planning Commission shall conduct a public hearing. The Planning Commission may make modifications to the proposed amendment and transmit its recommendations on the proposed text to Board of County Commissioners.
- E. **Action by Board of County Commissioners**. After receipt of the recommendation from the Planning Commission and upon publication of a public notice of the proposed text amendment published at least thirty (30) days prior to the public hearing, the Board of County Commissioners shall determine whether the text should be amended and direct the Administrator to make any such amendments to the official Land Use Code.

DIVISION 6 VARIANCES AND APPEALS OF ADMINISTRATIVE INTERPRETATIONS

Section 3.600 Variances

Variances are deviations from the terms of this Code that would not be contrary to the public interest when, owing to special circumstances or conditions like exceptional topographic conditions, narrowness, shallowness or the shape of a specific piece of property, the literal enforcement of the provisions of this Code would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.

A. **Initiation**. Applications for a Variance may be submitted by the owner or the owners authorized agent.

B. Application Submittal and Review Procedures Applicable to Applications for Variance

- 1. **Pre-application Conference**. A pre-application conference shall be held in accordance with Section 3.200.
- 2. **Application**. The applicant for a variance shall submit to the Land Use Administrator an application that includes the following materials. Additional materials may be required by the Land Use Administrator.
 - a. <u>Site Plan</u>. A site plan for the property at which the variance is being requested,
 - b. <u>Written Narrative</u>. A written narrative explaining the standards from which a variance is being sought, and the reasons why a variance is necessary.
- 3. Review of Application Materials by Land Use Administrator.

- a. <u>Review</u>. The Administrator shall review the application for completeness, in accordance with the provisions of Section 3.220. Upon a determination of completeness, the Administrator shall schedule the application for review and approval by the Board of Adjustment.
 - (1) Public hearing by the Board of Adjustment shall be scheduled within forty-five (45) calendar days of the date of completeness determination.
 - (2) Public notice of the hearing shall be the responsibility of the applicant, made in conformance with Section 3.230, with publication of hearing notice and notice to adjacent property owners no less than thirty (30) days prior to the hearing, and posting of the property no less than fourteen (14) days prior to the hearing.
- b. <u>Staff Report</u>. The Administrator shall prepare and submit a report to the Board of Adjustments regarding the proposed variance.
- 4. **Review and Action by Board of Adjustment**. The application for variance shall be considered by the Board of Adjustment at a public hearing, after proper notice, in accordance with the provisions of Section 3.240. The Board of Adjustment shall approve, approve with conditions or deny the application for Variance based on the approval standards set forth in Section 3.600.C.
- C. **Standards for Approval of a Request for Variance**. The Board of Adjustment must find that all of the following standards are met before a variance can be granted.
 - 1. **Special Circumstances Exist**. One of the follow circumstances or conditions exist with respect to the specific piece of property:
 - a. Exceptional narrowness, shallowness or shape of the property at the time of the enactment of the regulation in question.
 - b. Exceptional topographic conditions of the property.
 - c. Other extraordinary and exceptional situation or condition of the property.
 - 2. **Not a Result of the Actions of Applicant**. The special circumstances and conditions have not resulted from any act of the applicant.
 - 3. **Strict Application Consequence**. Because of the special circumstances and conditions found pursuant to Section 3.600.C.1, the strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship on, the owner of the property.

- 4. **Variance is Necessary for Relief**. The granting of the variance from the strict application of the provisions set forth in this Code is necessary to relieve the owner of the peculiar and exceptional practical difficulties or exceptional and undue hardship.
- 5. **Not Detrimental to the Public Good**. Granting the variance will not cause substantial detriment to the public good.
- 6. **Variance will not impair the County's Zoning Plans**. Granting the variance will not substantially impair the intent and purpose of the County's zone plan and the zoning resolutions adopted.

Section 3.610 Appeal Process for Administrative Interpretation of These Regulations.

An appeal may be taken to the Board of Adjustment by any person aggrieved by a final interpretation by the Administrator of this Land Use Code.

A. **Initiation**. The appeal shall be filed with the Administrator within thirty (30) calendar days of the date of the interpretation of the Administrator.

B. Statement of Appeal and Review Procedures.

- 1. **Statement of Appeal**. The appellant shall submit a written statement of the Administrator's interpretation to be appealed, the date of that interpretation and the reasons why the appellant believes that the interpretation of the Administrator is incorrect, including any materials or evidence to support the appeal.
- 2. **Public Hearing**. Public hearing by the Board of Adjustment shall be scheduled within forty-five (45) calendar days of the date the appeal was filed with the Administrator. Notice of the hearing shall be published no less than thirty (30) days prior to the hearing, pursuant to the provisions of Section 3.230. It is not necessary to post a notice of the hearing on the property or to mail notice of the hearing to adjacent property owners, and public notice shall be the responsibility of the County.
- 3. **Review and Action by the Board of Adjustment**. The Board of Adjustment shall review the Statement of Appeal and testimony by the Administrator at the Public Hearing. The Board of Adjustment shall determine the proper interpretation of the provision of the Land Use Code being appealed.
- 4. **Review Criteria for Appeal of Administrative Interpretation**. The Board of Adjustment shall consider the following criteria in hearing an appeal of an administrative interpretation.
 - a. The technical meaning of the provision being appealed.

- b. Evidence as to the past interpretation of the provision.
- c. The effect of the interpretation on the intent of this Code and the implementation of the Comprehensive Plan.

DIVISION 7 VACATION OF ROADWAYS, RIGHTS-OF-WAY AND EASEMENTS

Section 3.700 Purpose

The purpose of this Section is to provide for the vacation of roadways, rights-of-way and easements dedicated to Costilla County that have been determined to be no longer necessary.

Section 3.710 Applicability

This process may be used to vacate any dedicated roadway, right-of-way or easement of record in unincorporated Costilla County.

Section 3.720 Process

A. Application and Review Process.

1. **Pre-Application Conference**. All applications for vacations require a Pre-Application Conference to be held in accordance with Section 3.200. In addition, the applicant must consult with the appropriate utilities or other agencies that use the roadway, right-of-way or easement to be vacated prior to formal application.

2. **Application Materials**.

- a. **Map**. A map prepared by appropriately qualified persons such as a surveyor or engineer, in a clear and legible manner acceptable to the Land Use Administrator at a scale of one (1) inch to one hundred (100) or two hundred (200) feet. The map shall include the following information.
 - (1) The name, address and telephone number of each property owner and of the applicant(s) if other than the owner(s) and the name of the individual preparing the submittal.
 - (2) Legal description of the property upon which the roadway, right-of-way or easement to be vacated is located.
 - (3) Location of utilities to be vacated, within the property and on abutting properties.

- (4) All roadways, alleys, and transportation facilities abutting or servicing the properties affected by the vacation.
- (5) Other information deemed necessary by the County for a complete depiction of the proposed vacation.
- b. **Survey**. A survey and legal description of the roadway, right-of-way or easement to be vacated, prepared by a Colorado Registered Surveyor.
- c. **Approval from Users of Roadway, Right-of-Way and Easement**. Documentation that the utilities or other persons that may use the roadway, right-of-way or easement have no objection to the vacation.
- d. **Resubdivision Plat**. If the roadway, right-of-way or easement to be vacated is within the boundaries of a subdivision, the applicant must submit a resubdivision plat, eliminating the vacated roadway, right of way or easement and showing the lot configurations that will change as a result of the vacation. The resubdivision plat shall be prepared by a surveyor or engineer, in a clear and legible manner acceptable to the Land Use Administrator at a scale of one (1) inch to one hundred (100) or two hundred (200) feet.

3. **Notice.**

- a. Written Notice to Affected Parties and Adjacent Property Owners. At least ten (10) days before the date that the Board of County Commissioners will consider the vacation request, the applicant shall send a written notice of the proposed vacation to all affected parties, including but not limited to the owners of record of all property abutting the proposed vacation, and any utilities or other potential users of the roadway, right-of-way or easement proposed to be vacated. The notice shall describe the roadway, right-of-way or easement proposed to be vacated and shall indicate the time and place of the Board meeting at which the proposed vacation will be considered.
- b. **Notice by Publication**. At least fourteen (14) days prior to the day of the scheduled Board meeting, the County shall publish a notice regarding the proposed vacation in a newspaper of general circulation in Costilla County. The notice shall describe the roadway, right-of-way or easement proposed to be vacated and shall indicate the time and place of the Board meeting at which the proposed vacation will be considered.
- 4. Review and Approval Procedure for Vacations.
 - a. **Review of Application Materials by Land Use Administrator**. The Administrator shall review and prepare a report on the application to

vacate a roadway, right-of-way or easement in accordance with the provisions of Section 3.220. Upon a determination of completeness, the Administrator shall schedule the application for review and action by the Board of County Commissioners.

- b. **Schedule of Meeting with Board of County Commissioners**. The proposed vacation shall be scheduled for review and action by the Board within forty-five (45) calendar days of the date of completeness determination.
- 5. **Action by Board of County Commissioners**. The Board of County Commissioners shall consider the application for vacation at a public meeting noticed in compliance with paragraph 3 of this Section 3.720. The Board may approve the vacation by resolution if it satisfies the approval standards in paragraph 6 of this Section 3.720. If a roadway constitutes the boundary line between Costilla County and an adjacent County or a city or town, it may be vacated only by joint action by the County and the adjacent entity.
- 6. **Approval Standards.** To approve a roadway, right-of-way or easement vacation the Board of County Commissioners must find the following conditions exist.
 - a. The roadway, right-of-way or easement proposed to be vacated is not located within the limits of any city or town.
 - b. If the roadway, right-of-way or easement proposed to be vacated constitutes the boundary line between Costilla County and an adjacent County or a city or town, the adjacent entity has vacated or will vacate the roadway, right-of-way or easement in a joint action with the County.
 - c. The proposed vacation will not leave any adjoining land without an established public road or private access easement connecting the land with another established public road.
 - d. The vacation of a roadway established as a County road at any time requires a resolution approved by the Board at a public meeting for which proper notice has been completed as set forth in paragraph 3 of this Section 3.720.
 - e. The vacation of a roadway that has been established as a state highway requires a resolution approved by the transportation commission, pursuant to C.R.S. 43-1-106(11).
 - f. The proposed vacation will not result in any significant negative impacts on utility and drainage services, transportation facilities, surrounding properties or the natural environment.

- g. The proposed vacation will not adversely affect property values in the surrounding area.
- h. The proposed vacation is compatible with existing and proposed development in the surrounding area, and does not conflict with the Comprehensive Plan.
- The roadway, right-of-way or easement proposed to be vacated is no longer needed for the purpose for which it was dedicated, and the proposed vacation would be in the best interest of the residents of Costilla County.
- j. All affected persons and agencies have been notified of the proposed vacation and none have objected.

6. **Recordation and Vesting of Title.**

- a. Upon vacation of a roadway or right-of-way associated with a roadway, title to the lands included within such roadway or associated right-of-way, or so much thereof as may be vacated, shall vest subject to the same encumbrances, liens, limitations, and restrictions as the land to which it accrues, as follows:
 - (1) In the event that a roadway which constitutes the exterior boundary of a subdivision or other tract of land is vacated, title to said roadway shall vest in the owners of the land abutting the vacated roadway to the same extent that the land included within the roadway, at the time the roadway was acquired for public use, was a part of the subdivided land or was a part of the adjacent land.
 - (2) In the event that less than the entire width of a roadway or easement is vacated, title to the vacated portion shall vest in the owners of the land abutting such vacated portion.
 - (3) In the event that a roadway bounded by straight lines is vacated, title to the vacated roadway or associated right-of-way shall vest in the owners of the abutting land, each abutting owner taking to the center of the roadway, except as provided in paragraphs (1) and (2) above. In the event that the boundary lines of abutting lands do not intersect said roadway at a right angle, the land included within such roadway shall vest as provided in paragraph (4) below.
 - (4) In all instances not specifically provided for, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking that portion of the vacated roadway to which his land, or any part thereof, is nearest in proximity.

- (5) No portion of a roadway upon vacation shall accrue to an abutting roadway.
- b. Within thirty (30) days following approval of a vacation, the resolution and maps or amended plats documenting the vacation shall be recorded in the office of the clerk and recorder.